



U.S. Department of Justice
United States Attorney
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April 29, 2022

Via ECF
Honorable Katharine S. Hayden
United States District Court Judge
Frank R. Lautenberg U.S. Post Office
& Courthouse
Newark, New Jersey 07101

Re: United States v. Michael Cheff, Crim. No. 20-209

Dear Judge Hayden:

The proposed jury selection procedure in this case, pursuant to which the Court will excuse jurors who are not “fully vaccinated” for COVID-19, (that is, those who have not received their non-boosted primary series of vaccines) is agreed to by defense counsel and the Government. The parties also agree that the Court may also excuse jurors who decline to state their vaccination status during *voir dire*. See *United States v. McMillon*, 2022 WL *1 (N.D. Ca. March 23, 2022).

To preclude any subsequent disputes, however, the Government requests that the Court ask the defendant the following questions before jury selection begins, perhaps as soon as the pre-trial conference currently scheduled for Monday, May 2, 2022:

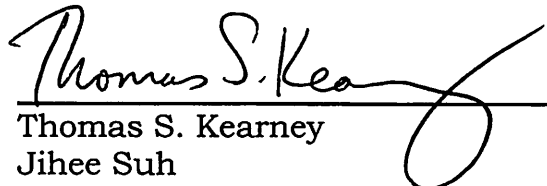
- (1) Do you understand that you have the right, by statute, to a jury for your upcoming criminal trial, selected at random from a fair cross section of the community in this district, the District of New Jersey?
- (2) Do you understand that the Government and your lawyer have consented to a procedure under which the Court will excuse jurors who are not “fully vaccinated” for COVID-19, that is, jurors who have not received their non-boosted, primary series of vaccines?
- (3) Do you agree with and consent to this procedure of excusing jurors who are not “fully vaccinated” for COVID-19?

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- (4) Do you understand that the parties also have consented to a procedure under which the Court will excuse those jurors who, when asked during *voir dire*, refuse to state their vaccination status?
- (5) Do you agree with and consent to this procedure of also excusing jurors who refuse, during *voir dire*, to state their vaccination status?
- (6) Have you discussed these procedures with your attorney?
- (7) After discussing them with him, are you satisfied that these procedures do not violate any of your rights, whether under statute or otherwise?
- (8) And are you satisfied with your attorney's representation of you regarding these procedures?

Respectfully Submitted,

PHILIP R. SELLINGER
United States Attorney



BY: Thomas S. Kearney
Jihee Suh
Assistant United States Attorneys

cc: John Lynch, Esq.
Paulette Pitt, Esq.